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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,618	10/23/2001	William T. Evans	385/9-1487US	1047

7590 07/27/2005
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EXAMINER

BOSWELL, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/045,618	Applicant(s) EVANS ET AL.	
	Examiner Christopher Boswell	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-5, 7-9, and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the website www.greatclubs.com, in view of Elson ("Four Stores are Ringing in Bridal Registers").

Greatclubs discloses the invention substantially as claimed. Greatclubs discloses a system for automated delivery of gifts with means for a sender to select an appropriate subset of a group of gifts to be sent to a recipient as a gift (page 1), means for inputting recipient and sender data and for storing the data (pages 14-19), means for assembling and packaging the gift in a gift package (page 5, paragraph 6), means for generating a gift letter using the sender and recipient data for sending the gift package to the recipient (page 5, paragraph 4). A gift card is considered to be an equivalent of a gift letter since the two perform substantially the same function in substantially the same way to produce substantially the same result (both are packaged in an envelope, sent via post, and both inform the recipient of the feelings of the sender

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and convey the fact that a gift is being sent). However, Greatclubs does not disclose the ability to select an appropriate subset of the group of products being health care products. Elson teaches of providing means for a user to select a number of different products to be placed within a gift basket (paragraph 11), wherein the different products the user can choose from include health care products (paragraph 15). Applicant's listing of products in the independent claims is considered to be a "Markus Group", and as such, only one of the products need be found to meet the claim. It would have been obvious to one with ordinary skill in the art at the time the invention was made to offer the user to select from a plurality of health care products to be included in a gift basket, as taught by Elson, within the system and method disclosed by Greatclubs in order to contribute to the general health of friends and family, wherein the type of gift being offered is an intended use of the automation system, and thus does not change the structural limitation of the claimed system.

Greatclubs.com also discloses the means for generating an acknowledgment using the supplied data and incorporating the acknowledgement in the gift package (page 5, paragraph 4), as in claims 2 and 5, that the gift can be shipped every month for a given period of time, depending on the schedule that the sender or recipient establish (page 5, paragraph 2), as in claims 7-8, and 11-12, as well as comprising means for assembling and packaging the gift in a gift package (page 5, paragraph 6), as in claims 4 and 9.

Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Great Clubs and Elson, as applied above, in view of www.thinkingofu.com.

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Great Clubs and Elson disclose the invention substantially as claimed. However, Great Clubs and Elson do not disclose automatic reminder means for generating periodic reminders. Thinkingofu teaches of a automated delivery system of gifts that send out an automatic reminder using previously entered profile information (text within the paragraph labeled "Never Forget a Birthday Again") in the same field of endeavor for the purpose of reminding the user of a specific date as chosen by the user. It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the automatic reminder service into the Automated delivery method of Great Clubs in order to remind the user of specific dates, i.e. birthdays, renewal deadlines, specified by previously inputted profile information, as taught by Thinkingofu.

Response to Arguments

Applicant's arguments with respect to claims 1-2, and 4-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to systems of automated delivery of gifts:

("K-tel Launches Custom Gift Basket Program in Partnership with 5thAvenueChannel.com"), Business Editors ("Digital Chef Announces Grand Opening of Gourmet Gift Center; New Cooking Series Debuts in Time for the Holiday Season").


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (571) 272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJB *CB*
July 22, 2005


BRIAN E. GLESSNER
PRIMARY EXAMINER